

## **Probate Notes for April 17, 2007**

Probate notes are a recommendation as to the outcome of the petition. Unlike tentative rulings, they do not automatically become adopted as the order of the court. If you wish to have your petition preapproved or would like to continue the matter to cure defects, contact the probate examiner at (530) 406-6718 between the hours of 2 p.m. and 4 p.m.

---

**Case: Limited Conservatorship of Pflugrath**  
**Case No. CV PB 07-20**

The report of Alta Regional Center is needed to complete the file. The requested powers will be reviewed at hearing.

**Case: Probate Conservatorship of Donna White**  
**Case No. PB 04-021**

If an amended proof of service is filed showing proper service to Kevin White, it is recommended to approve the Second Amended First Account and Report of Conservator and Request for Approval and Request for Fees and grant fees as requested for the petitioner's attorney and for reimbursement to petitioner of attorney's fees and bond fees previously paid.

It is recommended that petitioner be ordered to file two subsequent accountings: one for the period ending on the date of death and one for the period subsequent to the date of death. (Probate Code §2620(b).)

**Case: Estate of Billingsley**  
**Case No. CV PB 06 270**

It is recommended to approve the first and final report on waiver of account of executor and grant the petition for its settlement, for statutory and extraordinary attorney's fees, for reimbursement of costs to the petitioner's attorney, for authorization to withhold a reserve for closing costs and for final distribution.

**Case: Estate of Carpenter**  
**Case No. CV PB 07-50**

It is recommended to grant the petition to administer the estate.

**Case: Estate of Fielden**  
**Case No. CV PB 07-49**

It is recommended to grant the petition to administer the estate.

**Case: Estate of Flemyng**  
**Case No. CV PB 07-47**

It is recommended to grant the petition to administer the estate.

**Case: Estate of MacEachern**  
**Case No. CV PB 06-128**

The decedent's Will states a specific bequest to John McEachern (aka John Gray) of a Toyota. Petitioner failed to explain the specific bequest in her report. Petitioner should file a supplement which addresses the specific bequest of the Toyota, and whether it will be inventoried. The proof of service of Notice of Hearing does not show that John McEachern, aka John Gray, received notice of hearing.

**Case: Estate of Parry**  
**Case No. CV PB 06-144**

The following problems are noted:

1. The petition states, at page 1, that the decedent is a resident of San Diego County. Petitioner's initial petition for probate stated decedent was a resident of Yolo County. Petitioner should file a supplement to the petition which clarifies decedent's residence, and the court's jurisdiction. (Prob. Code §8006).
2. Petitioner cannot "waive" statutory attorney fees for services as attorney, because he is not entitled to such fees when serving as personal representative. (Prob. Code § 10804)
3. The petitioner has not filed the statement regarding the filing fee required by CA Rules of Court, Rule 7.552.
4. Note: the court cannot discharge a personal representative until a Declaration for Final Discharge is filed (form DE-295)

**Case: Estate of Rockholt**  
**Case No. CV PB 07-54**

The petitioner did not give notice to the trustee of the Dorothy J. Rockholt Revocable Trust dtd July 25, 2002, the residual beneficiary under the will. The trustee is not listed on Item 9 of the petition. Where the personal representative and trustee are the same person, notice must be given to the beneficiaries of the trust. (Prob. Code, §1208, 8110) A declaration should be filed which states who is the currently acting trustee of the Rockholt Trust so that it can be determined if notice was proper.

The Daily Democrat is not the newspaper in the city in which the decedent lived, as required by Probate Code §8121. However, the court may find there was substantial good faith compliance because the petitioner published in a paper of general circulation in the county in which the decedent resided. (Prob. Code, §8122)